

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MERCURY LUGGAGE
MANUFACTURING COMPANY, a Florida
corporation,

Plaintiff,

v.

DOMAIN PROTECTION, LLC, a Texas
limited liability company,

Defendant.

Civ. Case No.: 3:19-cv-1939

COMPLAINT

Plaintiff, Mercury Luggage Manufacturing Company (“Mercury Luggage”), sues defendant Domain Protection LLC (“Domain Protection”) and alleges as follows:

1. This is an action for violation of the Anticybersquatting Consumer Protection Act, codified at 15 U.S.C. § 1125(d), for Defendant’s bad faith registration and use of the domain sewardtrunk.com.

PARTIES

2. Mercury Luggage is a Florida corporation with its principal place of business in Jacksonville, Florida.

3. Domain Protection LLC is a limited liability company organized under the laws of Texas with its principal place of business in Dallas, Texas.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the claims asserted herein under 28 U.S.C. § 1331, as they arise under section 43 of the Lanham Act, 15 U.S.C. § 1051, *et seq.*, which is a law of the United States.

5. This Court has *in personam* jurisdiction over Defendant because it is organized under the laws of Texas and maintains its principal place of business in the state of Texas.

6. Venue is proper in this District because the Defendant is subject to personal jurisdiction in this District and a substantial portion of the actions giving rise to this action took place in this District.

ALLEGATIONS
Development of SEWARD TRUNK Brand

7. In 1878, Simon Seward founded the Seward Trunk and Bag Company.

8. At its peak, the Seward Trunk and Bag Company had 1,000,000 square feet of manufacturing space and was the largest manufacturer of steamer trunks and luggage in the world.

9. The Seward Trunk and Bag Company came to be known by the name Seward Trunk, which has consistently been used in connection with its products.

10. The Seward Trunk and Bag Company acquired common law trademark rights over the mark SEWARD TRUNK, as consumers primarily associated SEWARD TRUNK with the goods produced by the Seward Trunk and Bag Company.

11. During World War II, Seward Trunk manufactured foot lockers for U.S. soldiers and in 1970 NASA used Seward Trunk products to transport moon rocks as they toured the country.

12. Seward Trunk products continue to be sold nationwide through traditional stores such as Wal-Mart, Bed Bath & Beyond, Target, and Home Depot, and online marketplaces, such as Amazon.com, Wayfair.com, and Jet.com.

13. In 1998, Mercury Luggage acquired the Seward Trunk company and its associated famous trademark, SEWARD TRUNK.

14. In February 2018, the United States Patent and Trademark Office issued federal trademark registration number 5,405,171 to Mercury Luggage, for luggage and trunks. The registration reflects a first use in commerce of August 20, 1968. A duplicate of the registration certificate for SEWARD TRUNK is attached hereto as Exhibit 1.

Defendant's Use of the SEWARDTRUNK.COM Domain

15. Defendant Domain Protection, LLC registered the domain name sewardtrunk.com (the "Domain") in 2005.

16. In March 2017, Mercury Luggage contacted Domain Protection using its anonymized contact information provided by the registrar for the Domain to inquire about obtaining the domain.

17. Domain Protection responded that it would sell the Domain to Mercury Luggage for several thousand dollars.

18. The Domain currently hosts a web site with links to purchase luggage, trunks, and bags from other websites. A duplicate of the home page for the web site hosted at the Domain is attached hereto as Exhibit 2.

19. Upon information and belief, Domain Protection receives a royalty or other payment for any items that a person orders after following the links presented in the webpage.

20. Domain Protection's current use of the Domain is not in connection with any *bona fide* offering of goods or services.

21. Domain Protection has never used the Domain in connection with any *bona fide* offering of goods of services.

22. Domain Protection registered the Domain using the exact trade name under which Mercury Luggage and its predecessors sold luggage and trunks in bad faith and for the purpose of diverting traffic of persons looking for such luggage for Domain Protection's own financial gain.

23. Domain Protection does not use the Domain for any legitimate non-commercial or fair use purposes.

24. Domain Protection does not have any legitimate intellectual property rights in the Domain.

25. Domain Protection has registered several domains using identical or confusingly similar to the marks of others without any intellectual property rights in the domains.

26. Mercury Luggage has hired the law firm of Smith, Gambrell & Russell, LLP to protect its rights in this matter.

COUNT I

Violation of the Anticybersquatting Consumer Protection Act

27. Mercury Luggage re-alleges and incorporates paragraphs 1 through 26 of the Complaint as if fully set forth herein.

28. Mercury Luggage sues Domain Protection for violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

29. Domain Protection registered and uses a domain name that is identical to the mark used and owned by Mercury Luggage, SEWARD TRUNK.

30. Domain Protection registered and uses the domain name with a bad faith intent to profit from Mercury Luggage's mark, SEWARD TRUNK.

31. Mercury Luggage has been harmed by Domain Protection's registration and use of the domain name as it diverts traffic of web users looking for Mercury Luggage's products and serves to diminish and dilute Mercury Luggage's mark.

32. Domain Protection's violations of Mercury Luggage's rights in the SEWARD TRUNK mark have been willful and knowing.

WHEREFORE, Mercury Luggage respectfully requests that this Court enter judgment for it and against Domain Protection, transferring the domain SEWARDTRUNK.COM to Mercury Luggage, awarding Mercury Luggage its damages, and the costs and attorneys' fees it incurs in bringing this action.

DATED: August 14, 2019

SMITH, GAMBRELL & RUSSELL, LLP

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